

DRAFT Ordinance No. O-04-2019

Introduced: 12-9-2019

Adopted:

**SUBJECT:** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL TO AMEND CHAPTER VII, "PUBLIC HEALTH, SAFETY, AND CONDUCT", ARTICLE 5, "ANIMALS", BY REPEALING AND RE-ENACTING SECTION 7-502, "OWNERS RESPONSIBLE FOR CURBING OF ANIMALS", AND SECTION 7-503, "CONTROL OF VICIOUS ANIMALS"; AND BY ADDING SECTION 7-504, "UNWANTED CONTACT", SECTION 7-505, "ANIMAL NOISE", SECTION 7-506, "DANGEROUS ANIMALS", AND SECTION 7-507, "DOG EXERCISE AREA", AND OTHERWISE MAKE CONFORMING CHANGES.

WHEREAS, §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Mayor and Town Council to adopt such ordinances as it deems necessary to assure the good government of the Town of Kensington; to protect and preserve the rights, property and privileges of the Town; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of Town residents; and

WHEREAS, Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter authorizes the Mayor and Council to adopt such ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of property, rights, and privileges; for the preservation of peace and good order; for securing person and property from violation, danger, or destruction; and for the protection and promotion of the health, safety, and welfare, of the residents and visitors of the Town; and

WHEREAS, the Mayor and Town Council have adopted Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", to govern the care and maintenance of animals in the Town; and

WHEREAS, the Mayor and Town Council have determined that it is in the public interest to amend Article 5, "Animals", to update the code, allow the establishment of a dog exercise area and provide regulations for its use, and otherwise make conforming changes.

NOW THEREFORE, the Mayor and Town Council of Kensington does hereby adopt the following ordinance:

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL TO AMEND CHAPTER VII, "PUBLIC HEALTH, SAFETY, AND CONDUCT", ARTICLE 5, "ANIMALS", BY REPEALING AND RE-ENACTING**

CAPS

[Brackets]

Asterisks \* \* \*

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

: Indicate matter added in amendment

: Indicate matter deleted in amendment

**SECTION 7-502, "OWNERS RESPONSIBLE FOR CURBING OF ANIMALS", AND SECTION 7-503, "CONTROL OF VICIOUS ANIMALS"; AND BY ADDING SECTION 7-504, "UNWANTED CONTACT", SECTION 7-505, "ANIMAL NOISE", SECTION 7-506, "DANGEROUS ANIMALS", AND SECTION 7-507, "DOG EXERCISE AREA", AND OTHERWISE MAKE CONFORMING CHANGES.**

**Section 1.** NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-502, "Owners Responsible for Curbing of Animals", be repealed, re-enacted and amended to read as follows:

Section 7-502. [~~Owners Responsible for Curbing Animals~~] **ANIMAL DEFECATION**

~~[(a) Pet owners shall clean up and properly dispose of their pet's excrement when it is deposited on public property where people walk or congregate or on private property other than that of the owners.~~

~~[(b) It shall be unlawful for any person to allow his or her dog to be on school grounds or public recreation areas when people are present unless such a dog is on a leash and under the immediate control of a responsible person.]~~

**(A) AN OWNER MUST NOT ALLOW AN ANIMAL TO DEFECATE ON PROPERTY OUTSIDE OF THE OWNER'S PROPERTY, EXCEPT THAT AN ANIMAL MAY DEFECATE ON PUBLIC PROPERTY OR THE COMMON AREA OF PROPERTY IN WHICH THE OWNER SHARES AN INTEREST IF THE OWNER IMMEDIATELY REMOVES AND DISPOSES OF THE FECES BY A SANITARY METHOD APPROVED BY THE TOWN. THIS PARAGRAPH DOES NOT AFFECT ANY RIGHT OF A COMMON OWNERSHIP COMMUNITY TO REGULATE OR BAN ANIMALS FROM THE COMMUNITY'S PROPERTY.**

**(B) ANIMAL FECES MAY BE COLLECTED IN A PLASTIC BAG AND DISPOSED OF IN A TOWN TRASH CART, IF THE BAG IS PLACED INSIDE ANOTHER PLASTIC BAG.**

**(c) A CITATION MAY BE ISSUED TO THE OWNER OR CUSTODIAN OF THE ANIMAL FOR A VIOLATION OF THIS SECTION AS A CLASS G MUNICIPAL INFRACTION, SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES**

**Section 2.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-503, "Control of Vicious Animals", be repealed, re-enacted and amended to read as follows:

**CAPS**

[Brackets]

Asterisks \*\*\*

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment

Section 7-503. ~~[Control of Vicious Animals]~~ **ANIMALS AT LARGE**

~~[(a) It shall be unlawful for any person to let any vicious or dangerous animal out of secure confinement within his or her residence unless such animal is muzzled, leashed and under the immediate control of a responsible person.]~~

**(A) ANIMALS AT LARGE ARE PROHIBITED.**

**(B) ANY DOG IS AT LARGE IF IT IS OUTSIDE THE OWNER'S PREMISES AND NOT LEASHED, UNLESS IT IS A SERVICE DOG, IS IN A DOG EXERCISE AREA DESIGNATED BY THE TOWN OR THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION, OR IS PARTICIPATING IN AN ACTIVITY APPROVED BY THE TOWN.**

~~[(b) A violation of this Section shall be enforced by Montgomery County Police.]~~

**(C) ANY OTHER ANIMAL (I.E. CAT, LIVESTOCK,) IS AT LARGE IF IT IS OUTSIDE THE OWNER'S PREMISES AND NOT LEASHED OR IMMEDIATELY RESPONSIVE TO VERBAL OR NON-VERBAL DIRECTION.**

**(D) THE COMMON AREA OF A HOMEOWNER'S ASSOCIATION, CONDOMINIUM OR COOPERATIVE IS NOT THE OWNER'S PREMISES.**

**(E) THIS SECTION MAY BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.**

**(F) THE TOWN OF KENSINGTON RESERVES THE RIGHT TO ISSUE A CITATION TO THE OWNER OR CUSTODIAN OF THE ANIMAL FOR A VIOLATION OF THIS SECTION AS A CLASS G MUNICIPAL INFRACTION, SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES.**

**Section 3. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Kensington that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-504, "Unwanted Contact", be and is hereby enacted to read as follows:

**SECTION 7-504. UNWANTED CONTACT**

**(A) UNWELCOME OR UNSOLICITED THREATENING PHYSICAL CONTACT OR CLOSE PROXIMITY TO A PERSON OR DOMESTIC ANIMAL, SUCH AS BITING, CHASING, TRACKING, INHIBITING MOVEMENT, OR JUMPING, THAT OCCURS OUTSIDE THE OWNER'S PROPERTY AND THAT MAY CAUSE ALARM IN A REASONABLE PERSON, IS PROHIBITED.**

**(B) THIS SECTION MAY BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.**

**CAPS**

**[Brackets]**

**Asterisks \* \* \***

**CAPS**

**[Brackets]**

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

: Indicate matter added in amendment

: Indicate matter deleted in amendment

(C) THE TOWN OF KENSINGTON RESERVES THE RIGHT TO ISSUE A CITATION TO THE OWNER OR CUSTODIAN OF THE ANIMAL FOR VIOLATION OF THIS SECTION AS A CLASS A MUNICIPAL INFRACTION SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES.

**Section 4. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Kensington that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-505, "Animal Noise", be and is hereby enacted to read as follows:

**SECTION 7-505. ANIMAL NOISE**

(A) AN OWNER OR CUSTODIAN MUST NOT ALLOW AN ANIMAL TO CAUSE NOISE THAT IS LOUD ENOUGH AND PERSISTENT ENOUGH TO DISTURB ANOTHER PERSON'S QUIET ENJOYMENT.

(B) THIS SECTION MAY BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.

**Section 5. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Kensington that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-506, "Dangerous Animals", be and is hereby enacted to read as follows:

**SECTION 7-506. DANGEROUS ANIMALS**

(A) ANIMALS WHICH ARE DEEMED TO BE DANGEROUS BY THE MONTGOMERY COUNTY ANIMAL MATTERS BOARD MUST BE KEPT CONFINED IN A SECURE ENCLOSURE TO PREVENT DIRECT CONTACT WITH HUMANS OR OTHER ANIMALS, AND MUST BE LEASHED AND MUZZLED, AND UNDER THE CONTROL OF A PERSON AT LEAST 18 YEARS WHO IS PHYSICALLY ABLE TO RESTRAIN THE ANIMAL, AT ANY TIME IT IS REMOVED FROM THE OWNER'S PROPERTY.

(B) A VIOLATION OF THIS SECTION MAYBE ENFORCED BY THE MONTGOMERY COUNTY POLICE.

**Section 6. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Kensington that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-507, "Dog Exercise Area", be and is hereby enacted to read as follows:

**SECTION 7-506. DOG EXERCISE AREA**

**CAPS**

[Brackets]

Asterisks \* \* \*

**CAPS**

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment

(A) THE MAYOR AND TOWN COUNCIL MAY ESTABLISH A DOG EXERCISE AREA IN THE TOWN. THE FOLLOWING REQUIREMENTS APPLY TO ANY DOG EXERCISE AREA SO ESTABLISHED.

(1) ALL DOG OWNERS/HANDLERS MUST COMPLY WITH THESE RULES AND REGULATIONS AT ALL TIMES WHEN ACCESSING THE DOG EXERCISE AREA.

(2) ALL DOGS MUST BE ACCOMPANIED BY RESPONSIBLE OWNERS/HANDLERS WHO ARE PHYSICALLY ABLE TO EXERCISE EFFECTIVE RESTRAINT OF THE DOG(S), AND WHO WILL RESTRAIN THEIR DOGS IF NECESSARY.

(3) OWNERS/HANDLERS MUST REMAIN IN THE DOG EXERCISE AREA WITH THEIR DOGS AND MUST KEEP THEIR DOGS IN SIGHT AND UNDER THEIR CONTROL AT ALL TIMES.

(4) THE DOG EXERCISE AREA HOURS OF OPERATION ARE DAWN TO DUSK DAILY. NO PERSON SHALL USE THE FACILITY OTHER THAN DURING THE- DESIGNATED HOURS OF USAGE.

(5) INDIVIDUAL OWNERS/HANDLERS MAY BRING NO MORE THAN TWO (2) DOGS INTO THE DOG EXERCISE AREA AT ANY ONE TIME.

(6) OWNERS/HANDLERS MUST IMMEDIATELY LEASH AND REMOVE FROM THE DOG EXERCISE AREA ANY DOG SHOWING AGGRESSION TOWARDS PEOPLE OR OTHER DOGS. DOGS WITH A KNOWN HISTORY OF AGGRESSIVE OR DANGEROUS BEHAVIOR AND/OR DOGS THAT HAVE BEEN DEEMED "POTENTIALLY DANGEROUS" OR "DANGEROUS" BY ANY STATE, COUNTY OR TOWN ARE PROHIBITED AND ARE NOT PERMITTED TO ENTER THE DOG EXERCISE AREA.

(7) ALL DOGS 6 MONTHS OR OLDER MUST BE SPRAYED/NEUTERED.

(8) ANY DOG WITH A TRANSMISSIBLE, COMMUNICABLE DISEASE MAY NOT ENTER THE DOG EXERCISE AREA.

(9) ALL DOGS ENTERING THE DOG EXERCISE AREA MUST BE CURRENTLY LICENSED BY AN AUTHORIZED JURISDICTION AND MUST BE CURRENTLY

**CAPS**

[Brackets]

Asterisks \* \* \*

**CAPS**

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment

**VACCINATED AGAINST THE RABIES VIRUS. ALL DOGS ARE REQUIRED TO WEAR A CURRENT RABIES VACCINATION TAG WHEN USING THE FACILITY.**

**(10) PUPPIES USING THE DOG EXERCISE AREA MUST BE FOUR (4) MONTHS OF AGE OR OLDER.**

**(11) DOGS MUST BE IMMEDIATELY LEASHED AND RESTRAINED WHEN ADVISED TO DO SO BY A TOWN STAFF /CODE ENFORCEMENT OFFICER, AND ANY PERSON AND THEIR DOG MUST LEAVE THE DOG EXERCISE AREA WHEN ORDERED TO DO SO BY A TOWN STAFF MEMBER/CODE OFFICER.**

**(12) EATING, SMOKING OR VAPING ARE NOT PERMITTED INSIDE THE DOG EXERCISE AREA.**

**(13) NO DOG FOOD TREATS OR TOYS, EXCEPT TENNIS BALLS, ARE PERMITTED IN THE DOG EXERCISE AREA.**

**(14) NO BARE FEET ARE PERMITTED IN THE DOG EXERCISE AREA.**

**(15) OWNERS/HANDLERS SHALL CARRY A LEASH AT ALL TIMES, AND DOGS MUST BE LEASHED WHEN ENTERING AND LEAVING THE DOG EXERCISE AREA. "SPIKED" DOG COLLARS ARE NOT PERMITTED INSIDE THE DOG EXERCISE AREA.**

**(16) OWNERS/HANDLERS ARE LEGALLY RESPONSIBLE FOR THE BEHAVIOR OF THEIR DOGS AND REMAIN LEGALLY RESPONSIBLE FOR ANY INJURIES OR DAMAGE CAUSED BY THEIR DOGS.**

**(17) OWNERS/HANDLERS ARE RESPONSIBLE FOR SECURELY CLOSING AND LATCHING ALL GATES AS THEY ENTER OR EXIT THE DOG EXERCISE AREA.**

**(18) OWNERS/HANDLERS MUST PICK UP AND PROPERLY DISPOSE OF THEIR DOG'S FECES. DISPOSAL BAGS ARE PROVIDED FOR THIS PURPOSE.**

**(19) DOGS MUST NOT BE ALLOWED TO DIG. ANY HOLES CREATED BY A DOG SHALL BE IMMEDIATELY CORRECTED AND FILLED BY THE DOG'S OWNER/HANDLER.**

**CAPS**

**[Brackets]**

**Asterisks \* \* \***

**CAPS**

**[Brackets]**

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment

**(20) CHILDREN UNDER THE AGE OF ELEVEN (11) MUST BE ACCOMPANIED AT ALL TIMES BY A RESPONSIBLE ADULT WHO WILL BE ACCOUNTABLE FOR THE BEHAVIOR AND WELLBEING OF THE CHILD. CHILDREN SHOULD BE DISCOURAGED FROM APPROACHING OR PLAYING WITH UNFAMILIAR DOGS.**

**(21) OWNERS/HANDLERS ARE NOT PERMITTED TO GROOM OR BATHE THEIR DOGS INSIDE THE DOG EXERCISE AREA.**

**(22) PROFESSIONAL DOG SERVICES SUCH AS, BUT NOT LIMITED TO, TRAINING, BEHAVIOR MODIFICATION AND GROOMING ARE PROHIBITED INSIDE THE DOG EXERCISE AREA.**

**(23) UPON A FINDING THAT A DOG IS DANGEROUS, POTENTIALLY DANGEROUS OR A PUBLIC NUISANCE AS DEFINED IN CHAPTER 5 OF THE MONTGOMERY COUNTY CODE, OR THAT A DOG HAS BITTEN A PERSON OR ANOTHER DOG WITHOUT PROVOCATION, THE TOWN MAY BAN THE DOG FROM ACCESSING THE DOG EXERCISE AREA. APPEALS FROM THAT FINDING WILL BE MADE TO THE TOWN MANAGER.**

**(B) A CITATION TO THE OWNER OR CUSTODIAN OF THE ANIMAL MAY BE ISSUED FOR VIOLATION OF THIS SECTION AS A CLASS A-G MUNICIPAL INFRACTION SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES.**

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_ day of January , 2020, by the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, “Powers of the Council”, Section 601, “General Powers” of the Town Charter that:

(1) If any part of provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part of provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the \_\_\_\_ day of January, 2020, provided the following:

(a) Posted at Town Hall by the next business day following introduction; and

**CAPS**

**[Brackets]**

**Asterisks \* \* \***

**CAPS**

**[Brackets]**

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment

(b) Posted on the official Town website; and

(c) Sent to those persons listed on the official Town email list/mail subscription service; and

(d) Published once prior to the public hearing in the Town newsletter or sent by substitute regular mail to newsletter circulation addresses.

**INTRODUCED** by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_ day of December, 2020.

**ADOPTED** by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_ day of January , 2020.

**EFFECTIVE** the \_\_\_\_ day of January, 2020.

**ATTEST:**

**TOWN OF KENSINGTON**

By: \_\_\_\_\_  
Susan C. Engels, Clerk – Treasurer

\_\_\_\_\_  
Tracey C. Furman, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Suellen M. Ferguson, Town Attorney

**CAPS**

[Brackets]

Asterisks \* \* \*

**CAPS**

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment